IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.813 OF 2005

Anantrai Shantilal Shah. ... Petitioner
v/s.
The Mun.Commissioner & ors. ... Respondents

Mr.Shekhar Shety with Mr.B. D'Souza for petitioner.

Mr.R.S.Jaisinghani i/by J. D'Silva for res.Nos..3, 4 6 & 7.

Ms.A.K. Savla for res.Nos.1 & 2.

CORAM : H.L. GOKHALE &
S.C.DHARMADHKARI, JJ.

DATE : 4TH APRIL 2005

P.C. :

1. Heard the learned Counsel for the parties.

2. The case of the petitioner is that by virtue of a Development Agreement, the property owned by him has been entrusted to respondent Nos.3, 4, 6 and 7 for the purpose of development and they have exceeded the provisions of the Agreement. They have already filed a suit being Suit No.2131 of 2004 in the High Court wherein appropriate prayers have been made. Now through this petition, a mandatory order is sought to

demolish some of such alleged excessive constructions. In our view, the appropriate remedy for the petitioner is to amend the plaint of the pending suit, if required and to seek necessary directions therein, including mandatory directions, if he makes out a case. We cannot interfere in writ jurisdiction for this purpose. Petition is rejected.

(H.L. GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)